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Appeal Brief

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re patent application of:
Ananathanarayanan et al.

Atty. Docket No.: JP920030082US1

Serial No.: 10/734,798

Group Art Unit: 3693

Filed: December 12, 2003

Examiner: James A. Vezeris

For: METHOD, SYSTEM AND COMPUTER PROGRAM PRODUCT FOR
TRADING IN AN ONLINE MARKET

Honorable Commissioner of Patents
Alexandria, Virginia 22313-1450

APPELLANT'S BRIEF ON APPEAL

Sir:

Appellant respectfully appeals the Final Rejection of claims 1-4, 6-10, 12-14, and 17 in the Final Office Action dated January 19, 2010. Notice of Appeal was timely filed on April 12, 2010.

I. REAL PARTY OF INTEREST

[0001] The real party of interest is International Business Machines Corporation, assignee of 100% interest of the above-referenced patent application.

II. RELATED APPEALS AND INTERFERENCES

[0002] There are no other appeals or interferences known to Appellant, Appellant's legal representative or Assignee, which would directly affect or be directly affected by or have a bearing on the Board's decision on this appeal.

III. STATUS OF CLAIMS

[0003] Claims 1-4, 6-10, 12-14, and 17 are all the claims pending in the application and are under appeal. Claims 1-4, 6-7, 9-10, 12-14, and 17 stand rejected under 35 U.S.C. §102(e) as being anticipated by Preist, et al. (U.S. Publication No. 2002/0120588), hereinafter referred to as "Preist." Claim 8 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Preist, in view of Holden, et al. (U.S. Publication No. 2001/0032175), hereinafter referred to as "Holden."

IV. STATUS OF AMENDMENTS

[0004] An After Final Amendment under 37 C.F.R. § 1.116 was filed on March 12, 2010. An Advisory Action dated March 24, 2010 indicated that, upon filing an appeal, the Amendment filed on March 12, 2010 did not place the application in

condition for allowance, and that the rejections of claims would remain. The claims shown in the appendix are shown in their amended form as of the March 12, 2010 Amendment.

V. SUMMARY OF CLAIMED SUBJECT MATTER

[0005] The Appellants' claimed invention is generally described in pages 7 through 24 of the specification and shown in Figures 1 through 9 of the application as originally filed. More specifically:

[0006] 1. A computer-implemented method of trading goods and services in an online market, the method comprising: (1) using a computer to specify, by a user, initial requirements for initiating trading among trading parties in said online market **{page 10, lines 20-28; Fig. 3; element 301}**; (2) using said computer to execute a multi-party trading mechanism to arrive at trading offers, the trading offers being submitted by the trading parties based on the initial requirements of the user **{page 11, lines 13-26; Fig. 3; element 305}**, (3) wherein the multi-party trading mechanism comprises one of a continuous double auction, a call market, an ascending price auction, a descending price auction, a first price sealed bid auction, a uniform second price auction, and a reverse auction conducted by the user and the trading parties **{page 14, lines 21-28; Fig. 5; element 505}**; (4) using said computer to select a first trading offer from the trading offers of said multi-party trading mechanism **{page 15, lines 1-0; Fig. 5; element 507}**; (5) using said computer to invoke standalone bilateral negotiations, which stand apart

from the multi-party trading mechanism, to arrive at customized trading offers, the standalone bilateral negotiations being invoked with the trading parties who submitted trading offers {**page 15, lines 1-10; Fig. 5; element 509**}; (6) using said computer to repeat said executing of said multi-party trading mechanism, and either said selecting of said trading offers of said multi-party trading mechanism or said invoking said standalone bilateral negotiations to obtain either attractive and feasible trading offers from the multi-party trading mechanism or said customized trading offers from the standalone bilateral negotiations, respectively {**page 15, lines 11-29; Fig. 5; element 513**}; (7) using said computer to evaluate the attractive and feasible offers from the multi-party trading mechanism or the customized trading offers from the standalone bilateral negotiations by any of a utility function based on multiple attributes of a traded good or a traded service, a user-specified weights associated with the traded good or the traded service, and a user-specified costs associated with the multiple attributes of the traded good or the traded service {**page 15, lines 11-29; Fig. 5; element 513**}; and (8) using said computer to conclude trading deals based on evaluated attractive and feasible offers from the multi-party trading mechanism or the customized trading offers from the standalone bilateral negotiations, whereby said multi-party trading mechanism and said standalone bilateral negotiations are combined {**page 15, lines 1-10; Fig. 5; element 509**}.

[0007] 6. A computer-implemented method of trading in an online market, the online market comprising a user and a plurality of trading parties, the method comprising: (1) using said a computer to specify, by a user, initial requirements for

initiating trading among trading parties in said online market **{page 10, lines 20-28; Fig. 3; element 301}**; (2) using said computer to execute a multi-party trading mechanism to arrive at trading offers, the trading offers being submitted by the trading parties based on the initial requirements of the user **{page 11, lines 13-26; Fig. 3; element 305}**, (3) wherein the multi-party trading mechanism comprises one of a continuous double auction, a call market, an ascending price auction, a descending price auction, a first price sealed bid auction, a uniform second price auction, and a reverse auction conducted by the user and the trading parties **{page 14, lines 21-28; Fig. 5; element 505}**; (4) using said computer to select a first trading offer from the trading offers of said multi-party trading mechanism **{page 15, lines 1-0; Fig. 5; element 507}**; (5) using said computer to invoke standalone bilateral negotiations, which stand apart from the multi-party trading mechanism, to arrive at customized trading offers, the standalone bilateral negotiations being invoked with the trading parties who submitted trading offers **{page 15, lines 1-10; Fig. 5; element 509}**, said invoking further comprising: (6) agreeing upon a protocol for conducting the standalone negotiations **{page 19, lines 3-11; Fig. 6; element 603}**; (7) exchanging offers as per the agreed upon protocol **{page 19, lines 3-11; Fig. 6; element 603}**; and (8) concluding the standalone negotiations as per the agreed upon protocol **{page 19, lines 3-11; Fig. 6; element 603}**; (9) using said computer to repeat said executing of said multi-party trading mechanism, and either said selecting of said trading offers of said multi-party trading mechanism or said invoking said standalone bilateral negotiations to obtain either attractive and feasible trading offers from the multi-party

trading mechanism or said customized trading offers from the standalone bilateral negotiations, respectively **{page 15, lines 11-29; Fig. 5; element 513}**; (10) using said computer to evaluate the attractive and feasible offers from the multi-party trading mechanism or the customized trading offers from the standalone bilateral negotiations by any of a utility function based on multiple attributes of a traded good or a traded service, a user-specified weights associated with the traded good or the traded service, and a user-specified costs associated with the multiple attributes of the traded good or the traded service **{page 15, lines 11-29; Fig. 5; element 513}**; and (11) using said computer to conclude trading deals based on evaluated attractive and feasible offers from the multi-party trading mechanism or the customized trading offers from the standalone bilateral negotiations, whereby said multi-party trading mechanism and said standalone bilateral negotiations are combined **{page 15, lines 1-10; Fig. 5; element 509}**.

[0008] 7. An online computer system suitable for trading goods and services in an online market, the online market comprising a user and a plurality of trading parties, the system comprising: (1) a processor for specifying, by said user, initial requirements for initiating trading among trading parties in said online market **{page 10, lines 20-28; Fig. 3; element 301}**; (2) a processor for executing a multi-party trading mechanism to arrive at trading offers, the trading offers being submitted by the trading parties based on the initial requirements of the user **{page 11, lines 13-26; Fig. 3; element 305}**, (3) wherein the multi-party trading mechanism comprises one of a continuous double auction, a call market, an ascending price auction, a descending price auction, a first price

sealed bid auction, a uniform second price auction, and a reverse auction conducted by the user and the trading parties **{page 14, lines 21-28; Fig. 5; element 505}**; (4) a processor for selecting a first trading offer from the trading offers **{page 15, lines 1-0; Fig. 5; element 507}**; (5) a processor for invoking standalone bilateral negotiations, which stand apart from the multi-party trading mechanism, to arrive at customized trading offers, the standalone bilateral negotiations being invoked with the trading parties who submitted trading offers **{page 15, lines 1-10; Fig. 5; element 509}**; (6) a circuit for repeating said executing of said multi-party trading mechanism, and either said selecting of said trading offers of said multi-party trading mechanism or said invoking said standalone bilateral negotiations to obtain either attractive and feasible trading offers from the multi-party trading mechanism or said customized trading offers from the standalone bilateral negotiations **{page 15, lines 11-29; Fig. 5; element 513}**, respectively; (7) a processor for evaluating the attractive and feasible offers from the multi-party trading mechanism or the customized trading offers from the standalone bilateral negotiations by any of a utility function based on multiple attributes of a traded good or a traded service, a user-specified weights associated with the traded good or the traded service, and a user-specified costs associated with the multiple attributes of the traded good or the traded service **{page 15, lines 11-29; Fig. 5; element 513}**; and (8) a processor for concluding trading deals based on evaluated attractive and feasible offers from the multi-party trading mechanism or the customized trading offers from the standalone bilateral negotiations, whereby said multi-party trading mechanism and said

standalone bilateral negotiations are combined **{page 15, lines 1-10; Fig. 5; element 509}**.

[0009] 12. A program storage device readable by machine, tangibly embodying a program of instructions executable by said machine to perform a method of trading goods and services in an online market, said method comprising: (1) specifying, by a user, initial requirements for initiating trading among trading parties in said online market **{page 10, lines 20-28; Fig. 3; element 301}**; (2) executing a multi-party trading mechanism to arrive at trading offers, the trading offers being submitted by the trading parties based on the initial requirements of the user **{page 11, lines 13-26; Fig. 3; element 305}**, (3) wherein the multi-party trading mechanism comprises one of a continuous double auction, a call market, an ascending price auction, a descending price auction, a first price sealed bid auction, a uniform second price auction, and a reverse auction conducted by the user and the trading parties **{page 14, lines 21-28; Fig. 5; element 505}**; (4) selecting a first trading offer from the trading offers of said multi-party trading mechanism **{page 15, lines 1-10; Fig. 5; element 507}**; (5) invoking standalone bilateral negotiations, which stand apart from the multi-party trading mechanism, to arrive at customized trading offers, the standalone bilateral negotiations being invoked with the trading parties who submitted trading offers **{page 15, lines 1-10; Fig. 5; element 509}**; (6) repeating said executing of said multi-party trading mechanism, and either said selecting of said trading offers of said multi-party trading mechanism or said invoking said standalone bilateral negotiations to obtain either attractive and feasible

trading offers from the multi-party trading mechanism or said customized trading offers from the standalone bilateral negotiations **{page 15, lines 11-29; Fig. 5; element 513}**, respectively; **(7)** evaluating the attractive and feasible offers from the multi-party trading mechanism or the customized trading offers from the standalone bilateral negotiations by any of a utility function based on multiple attributes of a traded good or a traded service, a user-specified weights associated with the traded good or the traded service, and a user-specified costs associated with the multiple attributes of the traded good or the traded service **{page 15, lines 11-29; Fig. 5; element 513}**; and **(8)** concluding trading deals based on evaluated attractive and feasible offers from the multi-party trading mechanism or the customized trading offers from the standalone bilateral negotiations, whereby said multi-party trading mechanism and said standalone bilateral negotiations are combined **{page 15, lines 1-10; Fig. 5; element 509}**.

[0010] 17. A program storage device readable by machine, tangibly embodying a program of instructions executable by said machine to perform a method of trading goods and services in an online market, the online market comprising a user and a plurality of trading parties, said method comprising: **(1)** specifying, by a user, initial requirements for initiating trading among trading parties in said online market **{page 10, lines 20-28; Fig. 3; element 301}**; **(2)** executing a multi-party trading mechanism to arrive at trading offers, the trading offers being submitted by the trading parties based on the initial requirements of the user **{page 11, lines 13-26; Fig. 3; element 305}**, **(3)** wherein the multi-party trading mechanism comprises one of a continuous double

auction, a call market, an ascending price auction, a descending price auction, a first price sealed bid auction, a uniform second price auction, and a reverse auction conducted by the user and the trading parties **{page 14, lines 21-28; Fig. 5; element 505}**; (4) selecting a first trading offer from the trading offers of said multi-party trading mechanism **{page 15, lines 1-0; Fig. 5; element 507}**; (5) invoking standalone bilateral negotiations, which stand apart from the multi-party trading mechanism, to arrive at customized trading offers, the standalone bilateral negotiations being invoked with the trading parties who submitted trading offers **{page 15, lines 1-10; Fig. 5; element 509}**, said invoking further comprising: (6) agreeing upon a protocol for conducting the standalone negotiations **{page 19, lines 3-11; Fig. 6; element 603}**; (7) exchanging offers as per the agreed upon protocol **{page 19, lines 3-11; Fig. 6; element 603}**; and (8) concluding the standalone negotiations as per the agreed upon protocol **{page 19, lines 3-11; Fig. 6; element 603}**; (9) repeating said executing of said multi-party trading mechanism, and either said selecting of said trading offers of said multi-party trading mechanism or said invoking said standalone bilateral negotiations to obtain either attractive and feasible trading offers from the multi-party trading mechanism or said customized trading offers from the standalone bilateral negotiations **{page 15, lines 11-29; Fig. 5; element 513}**, respectively; (10) evaluating the attractive and feasible offers from the multi-party trading mechanism or the customized trading offers from the standalone bilateral negotiations by any of a utility function based on multiple attributes of a traded good or a traded service, a user-specified weights associated with the traded good or the traded

service, and a user-specified costs associated with the multiple attributes of the traded good or the traded service {**page 15, lines 11-29; Fig. 5; element 513**}; and (11) concluding trading deals based on evaluated attractive and feasible offers from the multi-party trading mechanism or the customized trading offers from the standalone bilateral negotiations, whereby said multi-party trading mechanism and said standalone bilateral negotiations are combined {**page 15, lines 1-10; Fig. 5; element 509**}.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

[0011] The issues presented for review whether claims 1-4, 6-7, 9-10, 12-14, and 17 are anticipated under 35 U.S.C. §102(e) by Preist and whether claim 8 is unpatentable under 35 U.S.C. §103(a) by Preist, in view of Holden.

VII. ARGUMENT

A. The Rejection Based on Preist

1. The Position in the Office Action

[0012] The Office Action states:

(See Preist Paragraphs 55-63) (1/19/2010 Communication, p. 6, ll. 14).

2. Appellants' Position

a. Independent Claim 1, 7 and 12

[0013] Independent claims 1, 7 and 12 are independently patentable for the features they describe and do not stand or fall with independent claims 6 & 17.

Appellants have previously drawn the examiner's attention to the fact that Preist fails to disclose, teach or even suggest at least the features of independent claim 1 directed to 1) using a computer to specify, by a user, initial requirements for initiating trading among trading parties in said online market; 2) using said computer to execute a multi-party trading mechanism to arrive at trading offers, the trading offers being submitted by the trading parties based on the initial requirements of the user, 3) wherein the multi-party trading mechanism comprises one of a continuous double auction, a call market, an ascending price auction, a descending price auction, a first price sealed bid auction, a uniform second price auction, and a reverse auction conducted by the user and the trading parties; 4) using said computer to select a first trading offer from the trading offers of said multi-party trading mechanism; 5) using said computer to invoke standalone bilateral negotiations, which stand apart from the multi-party trading mechanism, to arrive at customized trading offers, the standalone bilateral negotiations being invoked with the trading parties who submitted trading offers; 6) using said computer to repeat said executing of said multi-party trading mechanism, and either said selecting of said trading offers of said multi-party trading mechanism or said invoking said standalone bilateral negotiations to obtain either attractive and feasible trading offers from the multi-party trading mechanism or said customized trading offers from the standalone bilateral

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negotiations, respectively; 7) using said computer to evaluate the attractive and feasible offers from the multi-party trading mechanism or the customized trading offers from the standalone bilateral negotiations by any of a utility function based on multiple attributes of a traded good or a traded service, a user-specified weights associated with the traded good or the traded service, and a user-specified costs associated with the multiple attributes of the traded good or the traded service; and 8) using said computer to conclude trading deals based on evaluated attractive and feasible offers from the multi-party trading mechanism or the customized trading offers from the standalone bilateral negotiations, whereby said multi-party trading mechanism and said standalone bilateral negotiations are combined, as recited in independent claim 1 and similarly recited in independent claims 7 and 12.

[0014] In particular, Appellants noted that Preist fails to disclose executing a multi-party trading mechanism and invoking standalone bilateral negotiations. Applicants further submit that nothing in Preist, paras. 55-63 or elsewhere disclose “[u]sing said computer to evaluate the attractive and feasible offers from the multi-party trading mechanism or the customized trading offers from the standalone bilateral negotiations by any of a utility function based on multiple attributes of a traded good or a traded service, a user-specified weights associated with the traded good or the traded service, and a user-specified costs associated with the multiple attributes of the traded good or the traded service...” as recited in the claim.

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[0015] Preist merely describes various types of market mechanisms within which negotiation can be described. The negotiations are encoded using negotiation templates. Three exemplary market mechanisms are described at Preist, para 81, ll.4-6 and paras. 82-128 as a simple shop front, an English auction and a continuous double auction. However, none of these examples, the rules or even the descriptions of the negotiation templates provide any suggestion to employ multi-party trading and standalone bilateral negotiations.

[0016] Appellants have previously noted that the agreement maker mode of Preist relates to identifying the agreements that have been formed by virtue of the parties compliance with the Agreement Formation Rules specified in the negotiation template. The Response to Applicant's Arguments asserts:

When it is determined the negotiation host acts as an agreement maker. It creates agreement by taking offers from the selected buyers and sellers and applying rules (which create a form of negotiation) to create a deal. As can be seen in the art the negotiation occurs after two series of validations. These validations remove other parties resulting in a stand alone negotiation amongst the bidders and sellers whom were validated." (1/19/2010 Communication, p. 4, ll. 5-10, emphasis added)

[0017] The Communications statement that "[t]hese validations remove other parties resulting in a stand alone negotiation amongst the bidders and sellers whom were validated" can only be interpreted as an assertion that the proposal validations described in Preist are asserted by the Communication as a form of negotiation.

[0018] However, this interpretation of negotiation is inconsistent with Preist which describes the use of a proposal validator 28 (Preist, para 54, ll. 1-6) with a view to rejecting invalid proposals. Appellants respectfully submit that validation of a proposal

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is not a negotiation but merely the enforcement of market rules designed to encourage efficiency.

[0019] Moreover, the examiner's attention was previously drawn to the fact that even assuming arguendo the merit of such an interpretation, which Appellants strenuously dispute, the interpretation fails to address the features of the claims which require a multi-party trading mechanism in which the trading offers are submitted by the trading parties. That is, the interpretation offered by the Communication has the negotiation conducting the negotiation. However, the standalone bilateral negotiations recited in Appellants' claims are similarly invoked with the trading parties.

[0020] Under the interpretation offered by the Communication, the proposal validation rules executed by Preist are asserted to be a negotiation, although since the validation is executed by the proposal validator rather than by the trading parties, this interpretation of Preist fails to disclose each feature recited in the claims.

[0021] The 3/24/2010 Communication asserts that "[t]he negotiation host uses agreed upon rules to negotiate the final Price and Quantity creating a contract." (3/24/2010 Communication, p. 2, ll. 8-9, emphasis added).

[0022] Thus, the Communication argues the negotiation host negotiates the contract, which as noted above fails to address all the features of the claims which clearly state that it is the trading parties that are involved in the negotiations.

[0023] The Communication then states:

As for the second contention that the standalone bilateral negotiations of Preist are not invoked with 'the trading parties who submitted trading offers' examiner disagrees. Examiner finds it inherent that the two parties who submitted the bids are invoked

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within the negotiation as there (sic) bids and offers are being utilized. Further the system of Preist clearly shows the ability to act in a one to one fashion or as a more broad many to many fashion. Paragraphs 46, 56. (3/24/2010 Communication, p. 2, ll. 10-13).

[0024] Appellants submit that the Communication's assertion in the first paragraph that "[t]he negotiation host uses agreed upon rules to negotiate the final Price and Quantity creating a contract" is inconsistent with the Communication's assertion in the second paragraph that the two parties who submitted trading offers are inherently involved in the negotiations since the Communication has already asserted it is the negotiation host that negotiates using the agreed upon rules.

[0025] Appellants further submit that whether Preist "has the ability" to handle one to one or as a more broad many to may fashion is inapposite to Appellants' point that Preist fails to disclose the combination of the multi-party trading mechanism and the standalone bilateral negotiations.

[0026] Finally, Appellants note that there is no indication in the cited portions of Preist or elsewhere in the applied art of the repetitive execution of the multi-party and the standalone bilateral negotiations to obtain trading offers and no evaluation using an "any of a utility function based on..., a user-specified weights... and a user-specified costs..." and consequently no conclusion of trading deals "...based on evaluated attractive and feasible offers..." as recited in the independent claims.

[0027] In view the foregoing, the Board is respectfully requested to reconsider and withdraw these rejections.

b. Independent Claims 6 & 17

[0028] Independent claims 6 & 17 are independently patentable for the features they describe and do not stand or fall with independent claims 1, 7 and 12. Appellants arguments directed to claim 1 are equally relevant in traversing the rejection of claims 6 and 17. In addition, Appellants submit that claim 6 further recites “[u]sing said computer to invoke standalone bilateral negotiations, which stand apart from the multi-party trading mechanism, to arrive at customized trading offers, the standalone bilateral negotiations being invoked with the trading parties who submitted trading offers, said invoking further comprising: agreeing upon a protocol for conducting the standalone negotiations; exchanging offers as per the agreed upon protocol; and concluding the standalone negotiations as per the agreed upon protocol...” as recited in claims 6 and similarly recited in claims 17. Thus these features of claims 6 and 17 further define patentable subject matter over Preist.

[0029] In view the foregoing, the Board is respectfully requested to reconsider and withdraw this rejection.

e. Dependent Claims 2, 9 and 13

[0030] Dependent claim 2, 9 and 13 are independently patentable for the features they describe and do not stand or fall with their respective parent claims. Appellants note that the cited portions of Preist do not disclose, teach or even suggest wherein the invoking the standalone bilateral negotiations comprises: agreeing upon a protocol for conducting the standalone negotiations; exchanging offers as per the agreed upon

protocol; and concluding the standalone negotiations as per the agreed upon protocol, as recited in claims 2 and similarly recited in claims 9 and 13. As noted above, Preist specifies through the use of a negotiation template (Preist, para. 88) how negotiations are conducted. Preist fails to even suggest agreeing upon a protocol for standalone bilateral negotiations upon invocation.

[0031] In view the foregoing, the Board is respectfully requested to reconsider and withdraw this rejection.

f. Dependent Claims 3, 10 and 14

[0032] Dependent claims 3, 10 and 14 are independently patentable for the features they describe and does not stand or fall with their respective parent claims. Appellants respectfully draw attention to the fact that Preist fails to disclose, teach or even suggest at least the features directed to “[w]herein the exchanging offers comprises: receiving offers from the trading parties; evaluating the received offers; generating counter-offers on a basis of evaluated offers; sending counter-offers to the trading parties; and repeating said receiving, said evaluating, said generating and said sending in accordance with the agreed upon protocol, as recited in dependent claim 3 and similarly recited in dependent claims 10 and 14.

[0033] In fact, there is no indication that Preist contemplates any use of counter-offers. This is further supported by the fact that no counter-offers are present in any of the exemplary embodiments described by at for example, Preist, para 81 – 129.

[0034] In view the foregoing, the Board is respectfully requested to reconsider and withdraw this rejection.

g. Dependent Claim 4

[0035] Dependent claim 4 is independently patentable for the features it describes and does not stand or fall with its respective parent claim. In particular, Preist fails to disclose, teach or even suggest at least the features directed to “[w]herein the online market is a regulated online market, the online market being regulated to increase trading efficiency of the online market, the trading efficiency of the online market being governed by a number of trading parties that strike a trading deal...” The 1/19/2010 Communication assert support for these features is provided by Preist, paras. 6-7. (1/19/2010 Communication, p. 7, ll. 13).

[0036] However, Preist merely states:

[0006] In accordance with a first aspect of the present invention there is provided a computer system for allowing negotiation between a plurality of entities, the computer system comprising a computer network having a plurality of computer nodes; a computer node being arranged to define the negotiation between the entities with a set of negotiation activities; wherein the computer node is operable to implement a plurality of negotiation rule sets, each rule set constraining the set of negotiation activities to a specific negotiation type, thereby allowing an entity to select at least one of a plurality of negotiation types.

[0007] This seeks to provide efficiency in the automation of the negotiation process by standardizing the basic activities in any negotiation. This can reduce the effort required to automate many different kinds of business interactions. (Preist, paras. 6-7).

[0037] Appellants note that the cited portion of Preist fails to even mention the regulated online market to which the claim is directed. The Communication fails to

provide any indication as to what mapping between the terms in Preist and the features recited in Appellants claims. Thus, the Communication's rejection of claim 4 and in fact all of the rejections offered by the Communication fails to establish a prima facie case. In view the foregoing, the Board is respectfully requested to reconsider and withdraw this rejection.

B. The Rejection Based on Preist in view of Holden

1. The Position in the Office Action

[0038] The Office Action states:

Preist teaches executing a trading mechanism further comprises:
a repository containing information related to the initial requirements of trading parties; (See Preist Paragraphs 55-63)
Priest fails to teach a repository containing information related to past trading deals; and
a repository containing information related to the trading parties.
Holden teaches:
a repository containing information related to past trading deals; (See Holden Claim 14)
a repository containing information related to the trading parties. (See Holden Paragraph 37)
It would be obvious to one skilled in the art to combine Holden and Preist. There is motivation to do so because Preist relies on past trading deals and information relating to the parties which can be provided by Holden allowing Preist to make more accurate, and efficient negotiations. (1/19/2010 Communication, p. 8, ll. 9-23).

2. Appellants' Position

a. Dependent Claim 8

[0039] Dependent claim 8 is independently patentable for the features it describes and does not stand or fall with its respective parent claim. Preist-Holden does not disclose, teach or even suggest at least the features directed to “[w]herein the circuit for executing a trading mechanism further comprises: a repository containing information related to the initial requirements of trading parties; a repository containing information related to past trading deals; and a repository containing information related to the trading parties...” As previously noted, Preist fails to disclose the trading mechanism recited in the claims. The Communication does not assert that Holden remedies this deficiency, nor does it. Thus, claim 8 defines patentable subject matter over Preist-Holden. In view the foregoing, the Board is respectfully requested to reconsider and withdraw this rejection.

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VIII. CONCLUSION

[0040] In view the forgoing, the Board is respectfully requested to reconsider and withdraw the rejections of claims 1-4, 6-10, 12-14, and 17.

[0041] Please charge any deficiencies and credit any overpayments to Attorney's Deposit Account Number 09-0441.

Respectfully Submitted,

Date: June 10, 2010

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CLAIMS APPENDIX

1. (Rejected) A computer-implemented method of trading goods and services in an online market, the method comprising:
 - using a computer to specify, by a user, initial requirements for initiating trading among trading parties in said online market;
 - using said computer to execute a multi-party trading mechanism to arrive at trading offers, the trading offers being submitted by the trading parties based on the initial requirements of the user,
 - wherein the multi-party trading mechanism comprises one of a continuous double auction, a call market, an ascending price auction, a descending price auction, a first price sealed bid auction, a uniform second price auction, and a reverse auction conducted by the user and the trading parties;
 - using said computer to select a first trading offer from the trading offers of said multi-party trading mechanism;
 - using said computer to invoke standalone bilateral negotiations, which stand apart from the multi-party trading mechanism, to arrive at customized trading offers, the standalone bilateral negotiations being invoked with the trading parties who submitted trading offers;
 - using said computer to repeat said executing of said multi-party trading mechanism, and either said selecting of said trading offers of said multi-party trading mechanism or said invoking said standalone bilateral negotiations to obtain either attractive and feasible trading offers from the multi-party trading mechanism or said customized trading offers from the standalone bilateral negotiations, respectively;
 - using said computer to evaluate the attractive and feasible offers from the multi-party trading mechanism or the customized trading offers from the standalone bilateral negotiations by any of a utility function based on multiple attributes of a traded good or a

traded service, a user-specified weights associated with the traded good or the traded service, and a user-specified costs associated with the multiple attributes of the traded good or the traded service; and

using said computer to conclude trading deals based on evaluated attractive and feasible offers from the multi-party trading mechanism or the customized trading offers from the standalone bilateral negotiations, whereby said multi-party trading mechanism and said standalone bilateral negotiations are combined.

2. (Rejected) The method as recited in claim 1, wherein the invoking the standalone bilateral negotiations comprises:

agreeing upon a protocol for conducting the standalone negotiations;
exchanging offers as per the agreed upon protocol; and
concluding the standalone negotiations as per the agreed upon protocol.

3. (Rejected) The method as recited in claim 2, wherein the exchanging offers comprises:

receiving offers from the trading parties;
evaluating the received offers;
generating counter-offers on a basis of evaluated offers;
sending counter-offers to the trading parties; and
repeating said receiving, said evaluating, said generating and said sending in accordance with the agreed upon protocol.

4. (Rejected) The method as recited in claim 1, wherein the online market is a regulated online market, the online market being regulated to increase trading efficiency of the online market, the trading efficiency of the online market being governed by a number of trading parties that strike a trading deal.

5. (Cancelled).

6. (Rejected) A computer-implemented method of trading in an online market, the online market comprising a user and a plurality of trading parties, the method comprising:

using said a computer to specify, by a user, initial requirements for initiating trading among trading parties in said online market;

using said computer to execute a multi-party trading mechanism to arrive at trading offers, the trading offers being submitted by the trading parties based on the initial requirements of the user,

wherein the multi-party trading mechanism comprises one of a continuous double auction, a call market, an ascending price auction, a descending price auction, a first price sealed bid auction, a uniform second price auction, and a reverse auction conducted by the user and the trading parties;

using said computer to select a first trading offer from the trading offers of said multi-party trading mechanism;

using said computer to invoke standalone bilateral negotiations, which stand apart from the multi-party trading mechanism, to arrive at customized trading offers, the standalone bilateral negotiations being invoked with the trading parties who submitted trading offers, said invoking further comprising:

agreeing upon a protocol for conducting the standalone negotiations;

exchanging offers as per the agreed upon protocol; and

concluding the standalone negotiations as per the agreed upon protocol;

using said computer to repeat said executing of said multi-party trading mechanism, and either said selecting of said trading offers of said multi-party trading mechanism or said invoking said standalone bilateral negotiations to obtain either attractive and feasible trading offers from the multi-party trading mechanism or said customized trading offers from the standalone bilateral negotiations, respectively;

using said computer to evaluate the attractive and feasible offers from the multi-

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party trading mechanism or the customized trading offers from the standalone bilateral negotiations by any of a utility function based on multiple attributes of a traded good or a traded service, a user-specified weights associated with the traded good or the traded service, and a user-specified costs associated with the multiple attributes of the traded good or the traded service; and

using said computer to conclude trading deals based on evaluated attractive and feasible offers from the multi-party trading mechanism or the customized trading offers from the standalone bilateral negotiations, whereby said multi-party trading mechanism and said standalone bilateral negotiations are combined.

7. (Rejected) An online computer system suitable for trading goods and services in an online market, the online market comprising a user and a plurality of trading parties, the system comprising:

a processor for specifying, by said user, initial requirements for initiating trading among trading parties in said online market;

a processor for executing a multi-party trading mechanism to arrive at trading offers, the trading offers being submitted by the trading parties based on the initial requirements of the user,

wherein the multi-party trading mechanism comprises one of a continuous double auction, a call market, an ascending price auction, a descending price auction, a first price sealed bid auction, a uniform second price auction, and a reverse auction conducted by the user and the trading parties;

a processor for selecting a first trading offer from the trading offers;

a processor for invoking standalone bilateral negotiations, which stand apart from the multi-party trading mechanism, to arrive at customized trading offers, the standalone bilateral negotiations being invoked with the trading parties who submitted trading offers;

a circuit for repeating said executing of said multi-party trading mechanism, and either said selecting of said trading offers of said multi-party trading mechanism or said

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invoking said standalone bilateral negotiations to obtain either attractive and feasible trading offers from the multi-party trading mechanism or said customized trading offers from the standalone bilateral negotiations, respectively;

a processor for evaluating the attractive and feasible offers from the multi-party trading mechanism or the customized trading offers from the standalone bilateral negotiations by any of a utility function based on multiple attributes of a traded good or a traded service, a user-specified weights associated with the traded good or the traded service, and a user-specified costs associated with the multiple attributes of the traded good or the traded service; and

a processor for concluding trading deals based on evaluated attractive and feasible offers from the multi-party trading mechanism or the customized trading offers from the standalone bilateral negotiations, whereby said multi-party trading mechanism and said standalone bilateral negotiations are combined.

8. (Rejected) The system as recited in claim 7, wherein the circuit for executing a trading mechanism further comprises:

a repository containing information related to the initial requirements of trading parties;

a repository containing information related to past trading deals; and

a repository containing information related to the trading parties.

9. (Rejected) The system as recited in claim 7, wherein the circuit for invoking the bilateral negotiations comprises:

a circuit for agreeing upon a protocol for conducting the standalone negotiations;

a circuit for exchanging offers as per the agreed upon protocol; and

a circuit for concluding the standalone negotiations as per the agreed upon protocol.

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10. (Rejected) The system as recited in claim 9, wherein the circuit for exchanging offers comprises:

- a circuit for receiving offers from the trading parties;
- a circuit for evaluating the received offers;
- a circuit for generating counter-offers on a basis of evaluated offers; and
- a circuit for sending counter-offers to the trading parties.

11. (Cancelled).

12. (Rejected) A program storage device readable by machine, tangibly embodying a program of instructions executable by said machine to perform a method of trading goods and services in an online market, said method comprising:

- specifying, by a user, initial requirements for initiating trading among trading parties in said online market;

- executing a multi-party trading mechanism to arrive at trading offers, the trading offers being submitted by the trading parties based on the initial requirements of the user,

- wherein the multi-party trading mechanism comprises one of a continuous double auction, a call market, an ascending price auction, a descending price auction, a first price sealed bid auction, a uniform second price auction, and a reverse auction conducted by the user and the trading parties;

- selecting a first trading offer from the trading offers of said multi-party trading mechanism;

- invoking standalone bilateral negotiations, which stand apart from the multi-party trading mechanism, to arrive at customized trading offers, the standalone bilateral negotiations being invoked with the trading parties who submitted trading offers;

- repeating said executing of said multi-party trading mechanism, and either said selecting of said trading offers of said multi-party trading mechanism or said invoking said standalone bilateral negotiations to obtain either attractive and feasible trading offers

from the multi-party trading mechanism or said customized trading offers from the standalone bilateral negotiations, respectively;

evaluating the attractive and feasible offers from the multi-party trading mechanism or the customized trading offers from the standalone bilateral negotiations by any of a utility function based on multiple attributes of a traded good or a traded service, a user-specified weights associated with the traded good or the traded service, and a user-specified costs associated with the multiple attributes of the traded good or the traded service; and

concluding trading deals based on evaluated attractive and feasible offers from the multi-party trading mechanism or the customized trading offers from the standalone bilateral negotiations, whereby said multi-party trading mechanism and said standalone bilateral negotiations are combined.

13. (Rejected) The program storage device as recited in claim 12, wherein the invoking the standalone bilateral negotiations comprises:

agreeing upon a protocol for conducting the standalone negotiations;
exchanging offers as per the agreed upon protocol; and
concluding the standalone negotiations as per the agreed upon protocol.

14. (Rejected) The computer program storage device as recited in claim 13, wherein the exchanging offers comprises:

receiving offers from the trading parties;
evaluating offers received from the trading parties;
generating counter-offers on a basis of evaluated offers; and
sending the generated counter-offers to the trading parties.

15-16. (Cancelled).

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17. (Rejected) A program storage device readable by machine, tangibly embodying a program of instructions executable by said machine to perform a method of trading goods and services in an online market, the online market comprising a user and a plurality of trading parties, said method comprising:

specifying, by a user, initial requirements for initiating trading among trading parties in said online market;

executing a multi-party trading mechanism to arrive at trading offers, the trading offers being submitted by the trading parties based on the initial requirements of the user,

wherein the multi-party trading mechanism comprises one of a continuous double auction, a call market, an ascending price auction, a descending price auction, a first price sealed bid auction, a uniform second price auction, and a reverse auction conducted by the user and the trading parties;

selecting a first trading offer from the trading offers of said multi-party trading mechanism;

invoking standalone bilateral negotiations, which stand apart from the multi-party trading mechanism, to arrive at customized trading offers, the standalone bilateral negotiations being invoked with the trading parties who submitted trading offers, said invoking further comprising:

agreeing upon a protocol for conducting the standalone negotiations;

exchanging offers as per the agreed upon protocol; and

concluding the standalone negotiations as per the agreed upon protocol;

repeating said executing of said multi-party trading mechanism, and either said selecting of said trading offers of said multi-party trading mechanism or said invoking said standalone bilateral negotiations to obtain either attractive and feasible trading offers from the multi-party trading mechanism or said customized trading offers from the standalone bilateral negotiations, respectively;

evaluating the attractive and feasible offers from the multi-party trading mechanism or the customized trading offers from the standalone bilateral negotiations by

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any of a utility function based on multiple attributes of a traded good or a traded service, a user-specified weights associated with the traded good or the traded service, and a user-specified costs associated with the multiple attributes of the traded good or the traded service; and

concluding trading deals based on evaluated attractive and feasible offers from the multi-party trading mechanism or the customized trading offers from the standalone bilateral negotiations, whereby said multi-party trading mechanism and said standalone bilateral negotiations are combined.

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EVIDENCE APPENDIX

Not applicable.

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RELATED PROCEEDINGS APPENDIX

Not applicable.